

035-7102/1070275

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JESSE SAHAGUN,

Plaintiff,

08 CIV 5052 (SCR)  
ECF Case

– against –

INVACARE CORPORATION, *et al.*,

Defendants.

DECLARATION IN SUPPORT OF  
ISSUANCE OF A CERTIFICATE OF  
DEFAULT AGAINST ACCESSIBLE  
VANS AND MOBILITY OF NY,  
LLC

-----X

And a third-party action.

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Dennis M. Rothman declares:

1. I am a member of Lester Schwab Katz & Dwyer, LLP, attorneys for defendant and third-party plaintiff Motion Concepts L.P. (“Motion Concepts”). I make this declaration in support of entry of a certificate of default pursuant to Local Civil Rule 55.1 against third-party defendant Accessible Vans and Mobility of NY, LLC (“Accessible Vans”) upon its default in responding to the third-party complaint.

2. According to the records of the New York Secretary of State, Accessible Vans is a New York limited liability company, and is not an infant, in the military of an incompetent person.

3. Accessible Vans has not appeared in the action, and no one has contacted my firm on behalf of Accessible Vans.

4. Accessible Vans was served properly with the third-party summons and complaint on August 11, 2008 by service upon the New York Secretary of State, as shown by the affidavit of service filed August 19 as docket item 10.

5. The time of Accessible Vans to appear has expired.

6. I declare under penalty of perjury that the foregoing is true and correct.

Executed at New York, New York on September 3, 2008.

/S/

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Dennis M. Rothman

035-7102/1054640

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JESSE SAHAGUN,

Plaintiff,

08 CIV 5052 (SCR)

– against –

INVACARE CORPORATION, IN MOTION  
CONCEPTS, LLC., and PRAXAIR  
TECHNOLOGY, INC.,

CLERK’S CERTIFICATE

Defendants.

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MOTION CONCEPTS, L.P. s/h/a IN MOTION  
CONCEPTS, LLC,

Third-Party Plaintiff,

– against –

ACCESSIBLE VANS AND MOBILITY OF NY,  
LLC, E-Z LOCK, INC. and BAN PRECISION  
INC.,

Third-Party Defendants.

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I, J. Michael McMahon, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this third-party action commenced on July 30, 2008 with the filing of a third-party summons and complaint, a copy of the third-party summons and complaint was served on third-party defendant Accessible Vans and Mobility of NY, LLC by serving Donna Christie, a clerk in the office of the New York Secretary of State, as agent for service of process, and proof of such service thereof was filed on August 19, 2008.

I further certify that the docket entries indicate that the third-party defendant has not filed an answer or otherwise moved with respect to the third-party complaint herein. The default of the third-party defendant is hereby noted.

Dated:                      , New York  
            September        , 2008

J. MICHAEL MCMAHON  
Clerk of the Court

By: \_\_\_\_\_  
Deputy Clerk